

**Before the  
Federal Communications Commission  
Washington, DC**

In the matter of:

Commission request for comment	)	
on the Schools and Libraries	)	
Eligible Services List	)	
for funding Year 2005	)	CC Docket No. 02-6
	)	
	)	

It is my pleasure to submit comments on the E-Rate Eligible Services List. I applaud the Commission for vetting the list publicly and accepting comment before finalizing the list that applicants rely on for applying for E-Rate discounts.

The comments contained here are my personal comments and do not necessarily represent the views of the commonwealth of Virginia. Any quotes used from these comments should be attributed to Greg Weisiger the individual and not representative of any other entity.

When applying for E-Rate discounts, it is imperative that applicants have a clear understanding of what is eligible and ineligible for funding. The line between eligible and ineligible has been exceedingly hard to determine for the first seven years of this program. The Commission must consider that eligible and ineligible is not limited to a list of services. It also includes eligible and ineligible personnel and locations. Applicants must ensure the right people are using eligible services at the right locations, lest they risk funding denial.

The Commission must also consider the effect the language of its Orders has on the way the Administrator carries out its duties. In an earlier Order the Commission, in a footnote, allowed that certain services “such as” pager service for security personnel should be eligible for discounted funding. The Administrator unfortunately took that statement all too literally and limited the scope of eligible service for security personnel to pager service. Funding for cellular telephone service – much more practical for security personnel – was ineligible. If the Commission language had been more explicit, adding the qualifier “but not limited to...” or the Administrator been given more guidance with additional language, perhaps cellular telephone service for security personnel would have been eligible in Year Two, rather than Year Seven.

The Administrator continues to parrot exact language contained in Commission Orders and continues to limit funding to the handful of examples overtly provided in those Orders. While the Administrator must be mindful of its imperative not to set policy, it

should be given the leeway to apply common sense principles when applying Commission Orders. I suggest the Commission adopt a set of such common sense principles for the Administrator.

The confusing eligible services list has led to an unacceptably high percentage of denials. For example, in Virginia for funding year 2003, there were 28 instances of denials for: “Applicant has not provided sufficient documentation to determine the eligibility of this item” totaling \$1,041,057 in funding requests from applicants, including one of the Virginia Deaf and Blind Schools.

An additional 30 denials for \$593,516 cited violations of the “30 percent rule,” where more than 30 percent of an application contained ineligible equipment or services.

Total denials for ineligible services represented over four percent of total funding requests for Virginia in 2003.

Additionally, 98 funding requests were reduced to remove ineligible items discovered during PIA review. It is difficult to determine the amount of funding reduced in this manner.

#### Specific suggestions for the Funding Year 2005 Eligible Services List

I am pleased the Administrator included Special Eligibility Conditions with the list. In the past, applicants had to consult the Reference Area of the SLD Web site for additional information. The Web site had, and continues to have, a tendency to change without notice. A complete document spelling out ALL eligible services and funding conditions is necessary. The document should also include additional information on application processing such as, but not limited to the various 30 percent rules.

Centrex Service (Page 4) Centrex Service should be treated as “basic telephone service” for E-Rate purposes and not require a technology plan. The Commission has this question before it.

Custom Calling Services (Page 5) Are eligible services limited to those listed or is this an example? Instructions should be more explicit.

Inside Wire Maintenance (Page 8) “Ancillary” is an incorrect word to describe eligibility of this item. The phrase should be “associated with.”

Phone Calling Cards (Page 12) If pre-paid phone calling cards remain ineligible for funding, they should be listed as excluded on this page.

Satellite Service (Page 14) Satellite service should not be limited to “digital service” as listed. Certainly satellite service for distance learning can be digital; however, many K-12 educational providers continue to use analog satellite service as a mechanism to deliver

courses to rural, underserved students. Satellite service is defined as a “telecommunications service” under FCC Universal Service contribution documents.

Internet Access: Is streaming video delivery eligible as Internet Access? Is voice over IP eligible when delivered through an Internet Provider? Does it make a difference if the Internet Service provider is a telecommunications common carrier? This should be explained.

Finally, the Administrator has used Commission language verbatim with Eligible Users and Locations. I fully believe the Commission intended ALL school or library employees and employee locations to be eligible for E-Rate funding. Using specific language however, it appears the Administrator may not fund services for school or library employees that work in non-instructional buildings not “owned” by the school or library. A prime example would be a school administration building “owned” by the city or county where school employees work. The Commission must provide clearer guidance on this issue.

Respectfully submitted this 23<sup>rd</sup> day of August, 2004

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